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March 10, 2004

Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Schwarzenegger,

I am writing regarding correspondence sent to Governor Davis' office last fall by the United States Trade Representative (USTR). The letter requested that the Governor's office commit California to coverage under the procurement chapters of upcoming international trade agreements, including the Central American Free Trade Agreement (CAFTA), the Free Trade Area of the Americas (FTAA) and the South African Customs Union (SACU).

I would like to set up a meeting with you as soon as possible to discuss this issue.

As you may know, I chair the Senate Select Committee on International Trade Policy and State Legislation, a committee which examines the impacts of international trade agreements on state law making authority. I am very concerned that any state consent to international procurement agreements without consulting the Legislature could jeopardize important California procurement laws promoting economic development, environmental protection, and human rights.

Moreover, at a Joint Hearing the Select Committee convened yesterday with the Senate Business and Professions Committee entitled, *Outsourcing California: Our Jobs and Privacy at Risk*, serious questions were raised concerning the potential impact of international procurement rules on our ability to prevent the outsourcing of public sector jobs.

In addition, I am concerned by the process the USTR is using to bind states under the procurement chapters of international trade agreements. As you are aware, determining procurement policies is a responsibility of state legislatures and city councils, and this request to state governors by the USTR undermines this authority.

California's procurement laws allow us to use our market power to reflect the values of our constituents and ensure that tax dollars are spent in a responsible manner. International trade agreements generally prohibit governments from basing purchasing decisions on either the identity of a contract bidder or the way in which a product is manufactured. Although recent agreements seem to offer some exceptions to these principles, many of our priorities are not protected, including important existing and proposed

California purchasing preferences. Procurement laws at risk under the existing language of trade agreements include, but are not limited to:

- California's law prohibiting purchasing from companies that use sweatshop labor;
- California's recycled content procurement requirements for paper and other products;
- Preferences for California companies in contract bidding; and
- Potential legislation to address outsourcing of public sector jobs.

Significant questions about the scope and substance of the agreements need to be answered or California risks losing its traditional authority over state procurement policy.

While the Legislature maintains a strong position of support for international trade, we feel equally strongly that our laws be protected and that the Legislature be consulted on all trade agreements that may affect state laws. Cooperation between my committee and your office will ensure that the state's communications with the USTR demonstrate our shared commitment to protecting California laws and our lawmaking authority.

I look forward to working with you to protect California's interests and ensure that future agreements adequately balance the promotion of international trade with the need to protect state procurement laws and lawmaking authority.

Thank you for your consideration of these concerns.

Sincerely,



Senator Liz Figueroa

Chair, Senate Select Committee on International Trade Policy and State Legislation

Cc: Members of the Committee
Speaker of the Assembly
CA Congressional Delegation